

**REPORT OF RECOMMENDATIONS AND FINDINGS ON THE  
PROPOSAL TO MAKE CHANGES TO THE SCOPE OF PRACTICE  
OF MEDICAL NUTRITION THERAPISTS**

By the Nebraska State Board of Health

To the Director of the Division of Public Health of the Department of  
Health and Human Services and the Members of the Health and  
Human Services Committee of the Legislature

March 15, 2021

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## **Part One: Preliminary Information**

### **Introduction**

The Credentialing Review Program is a review process advisory to the Legislature which is designed to assess the need for state regulation of health professionals. The credentialing review statute requires that review bodies assess the need for credentialing proposals by examining whether such proposals are in the public interest.

The law directs those health occupations and professions seeking credentialing or a change in scope of practice to submit an application for review to the Department of Health and Human Services, Division of Public Health. The Director of this Division will then appoint an appropriate technical review committee to review the application and make recommendations regarding whether or not the application in question should be approved. These recommendations are made in accordance with statutory criteria contained in Section 71-6221 of the Nebraska Revised Statutes. These criteria focus the attention of committee members on the public health, safety, and welfare.

The recommendations of technical review committees take the form of written reports that are submitted to the State Board of Health and the Director of the Division along with any other materials requested by these review bodies. These two review bodies formulate their own independent reports on credentialing proposals. All reports that are generated by the program are submitted to the Legislature to assist state senators in their review of proposed legislation pertinent to the credentialing of health care professions.

## LIST OF MEMBERS OF THE NEBRASKA STATE BOARD OF HEALTH

### *THE NAMES OF THE MEMBERS OF THE BOARD'S CREDENTIALING REVIEW COMMITTEE ARE HIGHLIGHTED*

Joel Bessmer, MD

Russell Crotty, OD

Shane Fleming, BSN, MSN, RN

Diane Jackson, APRN-FNP

Michael Kotopka, DDS

John Kuehn, DVM

Donald Ostdiek, DPT

Colton Palmer, PMHNP

Mark Patefield, PharmD

David Reese

Daniel Rosenthal, PE

Robert (Bud) Synhorst

Timothy Tesmer, MD

Douglas Vander Broek, DC

Dan Vehle

Joshua Vest, DPM

The Board's Credentialing Review Committee met in the morning of March 15, 2021 in the morning to formulate its' recommendations on the proposal.

The members of the full Board of Health met in the afternoon of March 15, 2021 to formulate their recommendations on the proposal.

## **Part Two: Summary of Board of Health Recommendations**

The Board Committee members recommended approval of the proposal.

The members of the full Board recommended approval of the proposal.

## **Part Three (A): Summary of the Applicants' Original Proposal**

- 1) Advance the scope of practice contained in the Medical Nutrition Therapy Practice Act to the 2017 scope of practice to reflect current standards of practice in nutritional care:

Include the nutrition care process as a workflow element and as a framework to provide medical nutrition therapy services.

Define nutrition care process steps of assessment, diagnosis, intervention, monitoring and evaluation and include these items specifically into MNT scope of practice.

Include writing diet, laboratory, and protocol orders as components of the scope of practice of a licensed medical nutrition therapist.

- 2) Require pre-approved supervised practice for all applicants, including MS and PhD applicants.
- 3) Add licensure eligibility requirements for individuals who are Board Certified Specialists in Nutrition based on the academic standards and supervised practice requirements currently established for RDNs.
- 4) Update supervised practice experience to 1000 hours from 1200 hours to align with ACEND requirements.
- 5) Clarify and add definitions for the following practice terms to the scope of practice:
  - Medical Nutrition Therapy
  - Medical weight control
  - Nutrition
  - Nutrition care services
  - Therapeutic diets
- 6) Clarify exemption language for activities not subject to the act including ensuring that the LMNT scope does not change the current role or responsibilities of a nursing facility's required food service manager / certified dietary manager and does not result in additional requirements for nursing facilities or assisted living facilities to use an LMNT or expend current use of LMNTs.
- 7) Clarify temporary licensure for individuals eligible for examination but prior to examination completion and individuals in our state on a temporary basis for medical emergency.
- 8) Update membership of the Medical Nutrition Therapy Board to include a Board-Certified Specialist in Nutrition, as available.

## **Part Three (B): Summary of Amendments to the Applicants' Original Proposal**

Revisions to the original proposal were made to better address the needs of those practitioners who are not members of the applicant group but who satisfy objective standards of eligibility for licensure including Certified Nutrition Specialists (CNS), for example, and to accommodate standardization of credentials across states. Among these additional proposed changes is the elimination of the LMNT credential and its replacement with two new credentials, namely, an LDN credential and an LN credential. Additionally, wording was revised to more appropriately reflect the title and qualifications of those who possess the CNS credential, as well as adding wording which would require on-site supervision by qualified supervisors of the supervised practice of licensure candidates. Other additional proposed changes to the original proposal include the establishment of additional terms and clarifying definitions of these terms.

A second amendment was submitted just before the scheduled public hearing on the applicant's proposal. This amendment was created to: 1) clearly differentiate the qualifications and pathways for all qualified MNT providers to become licensed, 2) appropriately and clearly define and reflect the title, qualifications, and certifying board of CNSs, 3) ensure that those undergoing supervised practice are only providing nutrition care services, 4) revise definitions for nutritional assessment, diagnosis, intervention, monitoring, evaluation, nutritional care services, and medical weight control, 5) revise wording pertinent to prescription dose adjustments in outpatient settings, 6) revise wording pertinent to physician consultation and supervised pre-practice, 7) clarify the use of new LDN and LN credentials and termination of the LMNT credential, 8) clarify requirements pertinent to supervised pre-practice and which professionals could provide such supervision.

**The full text of the original version of the applicants' proposal as well as the full text of the amendments to the original proposal can be found under Medical Nutrition Therapy in the credentialing review program link at <https://dhhs.ne.gov/Licensure/Pages/Credentialing-Review.aspx>**

## **Part Four: Discussion and Recommendations of the Members of the Credentialing Review Committee of the Board of Health on the Medical Nutrition Therapy Proposal**

Board of Health Chairperson Dr. Douglas Vander Broek, Chairperson of the Medical Nutrition Therapy Technical Review Committee, briefly commented on the work of his committee by stating that these committee members met five times between October 2020 and March 9, 2021. He went on to state that these meetings were all courteous and informative and that the committee members received all the documentation they needed to do their work. He added that by the end of the committee's review process the applicant group had successfully responded to all questions and concerns raised during this phase of the review.

Dr. Paula Ritter-Gooder, Ph.D., then spoke on behalf of the applicants group's proposal. Dr. Ritter-Gooder informed the Board members that the MNT licensure statute has not been updated since 1995 and that there are elements of practice that are now vital components of what MNTs do that are not even specifically mentioned in this statute. She went on to state that the purpose of the current MNT proposal is to include these, now, vital elements of practice into the MNT statute, specifically. These elements of practice would include nutritional assessment and diagnosis and lab orders, for example. Additionally, the proposal seeks to include provisions that would allow other qualified, but alternatively trained and credentialed, nutritionists to become licensed as MNTs. To accomplish this the proposal offers a dual path to licensure process resulting in two new credentials, specifically, the Licensed Dietitian Nutritionist and the Licensed Nutritionist credentials. Dr. Ritter-Gooder went on to inform the Board members that the current LMNT credential would be replaced by these two new credentials under the terms of the proposal.

### **The Board of Health Credentialing Review Committee members reviewed the six statutory criteria pertinent to scope of practice proposals, as follows:**

**Criterion One:** The health, safety, and welfare of the public are inadequately addressed by the present scope of practice or limitations on the scope of practice.

Commenting on this criterion were the following Board Committee members:

Shane Fleming: Commented that Dr. Vander Broek's remarks clarify that the proposal was created for the purpose of clarifying and modernizing the MNT statute and bringing up to current practice standards, and that this is an important goal that should be allowed to advance to approval.

Diane Jackson: Agreed with Mr. Fleming that the goal of clarification and modernization is a positive goal and an important goal as well.

Board Committee members Reese and Rosenthal expressed agreement with the remarks of Board Committee members Jackson and Fleming.

**Criterion Two:** Enactment of the proposed change in scope of practice would benefit the health, safety, and welfare of the public.

Diane Jackson: Commented that clarification and modernization are the principal benefits of the proposal.

Shane Fleming: Agreed with the comment made by Board Committee member Jackson. Board Committee members Reese, Rosenthal, and Kuehn agreed with Board Committee members Jackson and Fleming.

**Criterion Three:** The proposed change in scope of practice does not create a significant new danger to the health, safety, or welfare of the public.

Diane Jackson: Commented that she sees no new harm coming from the proposal.

Shane Fleming: Agreed with Board Committee member Jackson.

Board Committee members Kuehn, Reese, Rosenthal, and Synhorst expressed agreement with Board Committee member Jackson.

**Criterion Four:** The current education and training for the health profession adequately prepares practitioners to perform the new skill or service.

Diane Jackson: Commented that clarification and modernization of education and training requirements would better prepare MNT practitioners for practice.

Shane Fleming: Agreed with Board Committee member Jackson.

Board Committee members Kuehn, Reese, Rosenthal, and Synhorst expressed agreement with Board Committee member Jackson.

**Criterion Five:** There are appropriate post-professional programs and competency assessment measures available to assure that the practitioner is competent to perform the new skill or service in a safe manner.

The Board Committee members indicated that they had no concerns that pertain to this criterion.

**Criterion Six:** There are adequate measures to assess whether practitioners are competently performing the new skill or service and to take appropriate action if they are not performing competently.

The Board Committee members indicated that they had no concerns that pertain to this criterion.

## **Credentialing Review Committee Recommendations on the Proposal**

The Board's Credentialing Review Committee members made their recommendation on the proposal via a Yes / No vote, as follows:

### ***Voting "yes" to recommend approval of this proposal were:***

Fleming, Jackson, Kuehn, Reese, Rosenthal, and Synhorst.

### ***Voting "no" to recommend against approval of this proposal was:***

There were no nay votes.

**By this vote the Board's Credentialing Review Committee members recommended approval of the proposal.**

## **Part Five: The Recommendations of the Members of the Full Board of Health on the Medical Nutrition Therapy Proposal**

### **Comments by the Board Members**

Dan Rosenthal, Vice-Chairperson of the Board's Credentialing Review Committee, commented that the Board's CRC Committee members unanimously supported the MNT proposal and that no concerns were expressed about this proposal during their review of this proposal during their morning meeting. Dr. Vander Broek expressed agreement with Mr. Rosenthal's comments.

### **The recommendations of the members of the full Board of Health**

The Board of Health members made their recommendation on the proposal via a Yes / No vote on the recommendation of their Credentialing Review Committee, as follows:

***Voting "yes" to recommend approval of this committee's recommendation which was to recommend approval of the applicants' proposal were:***

Bessmer, Crotty, Jackson, Kotopka, Kuehn, Palmer, Reese, Rosenthal, Synhorst, Tesmer, Vander Broek, Vehle, and Vest.

***Voting "no" to recommend against approval of this committee's recommendation were were:***

There were no nay votes.

**By this vote the members of the full Board of Health recommended approval of the proposal.**

